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No. 87-

IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1987

RED LAKE BAND OF CHIPPEWA INDIANS, et al.
Petitioners,

v.

UNITED STATES OF AMERICA,
Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

SUPPLEMENTAL APPENDIX

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SUPPLEMENTAL APPENDIX

Selected Portions

Bureau of Indian Affairs Regulations, Law and Order on Indian Reservations

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25 C.F.R. § 11.1

§ 11.1 Application of regulations.

(a) Except as otherwise provided in this part, §§ 11.1 through 11.87 of this part apply to the following Indian reservations:

(1) Omaha (Nebraska).

(2) Flandreau (South Dakota).

(3) Yankton (South Dakota).

(4) Wind River (Wyoming).

(5) Bois Forte (Minnesota).

(6) Red Lake (Minnesota).

(7) Cocopah (Arizona).

(8) Kaibab (Arizona).

(9) Hopi (Arizona) (Tribal court enforcement of special grazing regulations).

(10) Fallon (Nevada).

(11) Goshute (Nevada).

(12) Lovelock (Nevada).

(13) Te-Moak (Nevada).

(14) Yomba (Nevada).

(15) Duckwater Shoshone (Nevada).

(16) Kootenai (Idaho).

(17) Shoalwater Bay (Washington).

(18) Hoopa (California) (Jurisdiction limited to special fishing regulations).

(19) Anadarko Area Tribes (Western Oklahoma).

(20) Choctaw (Mississippi).

(21) Eastern Cherokee (North Carolina).

(22) Louisiana Area (Louisiana) (Includes Coushatta and other tribes in the State of Louisiana which occupy Indian country and which accept the application of this part; *provided* that this part shall not apply to any Louisiana tribe other than the Coushatta Tribe until notice of such application has been published in the FEDERAL REGISTER.)

(b) It is the purpose of the regulations in this part to provide adequate machinery of law enforcement for those Indian tribes in which traditional agencies for the enforcement of tribal law and custom have broken down for which no adequate substitute has been provided under Federal or State law.

(c) No court of Indian Offenses will be established on reservations where justice is effectively administered under State laws and by State law enforcement agencies.

(d) The regulations in this part shall continue to apply to tribes organized under the Act of June 18, 1934 (48 Stat. 984; 25 U.S.C. 461-479), until a law and order code has been adopted by the tribe in accordance with its constitution and by-laws and has become effective; and thereafter §§ 11.3, 11.4, 11.301, 11.302, 11.303, 11.304, 11.305 and 11.306 shall continue in effect as long as the Indian judges and Indian police are paid from appropriations made by the United States or until otherwise directed.

(e) Nothing in this section shall prevent the adoption by the tribal council of ordinances applicable to the individual tribe, and after such ordinances have been approved by the Secretary of the Interior they shall be controlling, and the regulations of this part which may be in-

consistent therewith shall no longer be applicable to that tribe.

25 C.F.R. § 11.3
§ 11.3 Judges.

(a) A Court of Indian Offenses established for any reservation or group of reservations shall consist of one or more chief judges, whose duties shall be regular and permanent, and two or more associate judges, who may be called to service when occasion requires, and who shall be compensated on a per diem basis.

(b) Each judge shall be appointed by the Commissioner of Indian Affairs, subject to confirmation by a two-thirds vote of the tribal council.

(c) Each judge shall hold office for a period of 4 years, unless sooner removed for cause or by reason of the abolition of the said office, but shall be eligible for reappointment.

(d) A person shall be eligible to serve as judge of a Court of Indian Offenses only if he (1) is a member of a tribe under the jurisdiction of the said court; and (2) has never been convicted of a felony, or, within 1 year then last past, of a misdemeanor.

(e) No judge shall be qualified to act as such in any case wherein he has any direct interest or wherein any relative by marriage or blood, in the first or second degrees, is a party.

(f) On any reservation where no permanent Court of Indian Offenses has been established under this section, a provisional court may be established, with powers equal to those of a permanent court. Such court shall be established by detailing a judge from another reserva-

tion, upon request of the tribal council of the reservation desiring his services. Such detail shall be made by the superintendent of the reservation where the judge regularly presides: *Provided*, That where the judge to be detailed is paid from tribal funds the consent of the tribal council of such tribe shall be obtained for the detail. No detail shall extend beyond 1 year, but any detail may be renewed for additional periods unless such renewal is disapproved by the tribal council which requested or approved the detail.

25 C.F.R. § 11.4

§ 11.4 Removal of Judges.

Any judge of the Court of Indian Offenses may be suspended, dismissed or removed, by the Commissioner of Indian Affairs, for cause, upon the recommendation of the tribal council.

25 C.F.R. § 11.11

§ 11.11 Records.

Each Court of Indian Offenses shall be required to keep, for inspection by duly qualified officials, a record of all proceedings of the court, which record shall reflect the title of the case, the names of the parties, the substance of the complaint, the names and addresses of all witnesses, the date of the hearing or trial, by whom conducted, the findings of the court or jury, and the judgment, together with any other facts or circumstances deemed of importance to the case. A record of all proceedings shall be kept at the agency office, as required by 25 U.S.C. 200.

25 C.F.R. § 11.22

§ 11.22 [Civil] Jurisdiction.

The Court of Indian Offenses shall have jurisdiction of all suits wherein the defendant is a member of the tribe or tribes within their jurisdiction, and of all other suits between members and nonmembers which are brought before the courts by stipulation of both parties. No judgment shall be given on any suit unless the defendant has actually received notice of such suit and ample opportunity to appear in court in his defense. Evidence of the receipt of the notice shall be kept as part of the record in the case. In all civil suits the complainant may be required to deposit with the clerk of the court a fee or other security in a reasonable amount to cover costs and disbursements in the case.